

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

JOHN ANTHONY CASTRO,

Plaintiff,

v.

SECRETARY OF STATE ANDREW
WARNER, and DONALD JOHN TRUMP,

Defendants,

WEST VIRGINIA REPUBLICAN PARTY,

Intervenor-Plaintiff.

Civil Action No. 2:23-cv-00598
The Honorable Irene C. Berger

MOTION TO EXCEED PAGE LIMIT

Defendant Donald John Trump, by counsel, hereby moves to exceed the page limit with respect to his *Memorandum in Support of Motion to Dismiss* pursuant to Local Rule 7.1(a)(2). Defendant requests an exceedance of seven (7) pages to more fully address Plaintiff's allegations and the constitutional issues they necessarily implicate. In support, Defendant states as follows.

1. Plaintiff John Anthony Castro is a repeat-litigant who has filed identical lawsuits across the country seeking emergency and immediate relief. Plaintiff seeks injunctive relief, seemingly on a state-by-state basis, striking Donald John Trump from the ballot for the 2024 election for President of the United States.

2. The relief Plaintiff seeks in this case, while baseless, is extraordinary. If credited, Plaintiff's claims would implicate profound constitutional issues with direct implications on a major party front-runner's access to the ballot in connection with the upcoming election for the chief executive.

3. Plaintiff's Complaint gives rise to a number of threshold defects pursuant to Federal Rule of Civil Procedure 12(b) which provide independent grounds to dismiss the Complaint in its entirety.

4. Thorough briefing on each basis for dismissal is necessary in this instance. The jurisdictional issues are highly important in this case and must be addressed before any non-jurisdictional issues are considered. The non-jurisdictional issues must be raised and argued risk of waiver pursuant to Rule 12(b).

5. Plaintiff seems to believe that an appeal to the Fourth Circuit Court of Appeals and the Supreme Court of the United States is "inevitable." [CM/ECF No. 1 at ¶ 45.] It appears that Plaintiff intends to litigate his claims all across the country and at all levels of the judiciary.

6. Under these circumstances, Defendant believes that thorough briefing on all Rule 12(b) dispositive issues serves the interests of judicial economy—for this Court's consideration and for other courts which might hear the same (or similar) issues brought by this Plaintiff. Inconsistent or underdeveloped briefing may run the risk of inconsistent rulings, which, in these circumstances, would have negative public impacts.

7. Defendant submits that these circumstances constitute "good cause" pursuant to Rule 7.1(a)(2) for an exceedance of the page limit from 20 pages to 27 pages. Therefore, Defendant respectfully requests such an exceedance.

DONALD JOHN TRUMP,

By Counsel,

/s/ J. Mark Adkins

J. Mark Adkins (WVSB #7414)

Richard R. Heath, Jr. (WVSB #9067)

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CERTIFICATE OF SERVICE

The undersigned counsel does hereby certify that on the **6th** day of **October, 2023**, the foregoing ***Motion to Exceed Page Limit*** was served upon all parties of record electronically via the Court's CM/EMF system as follows:

<p>John Anthony Castro 12 Park Place Mansfield, Texas 76063 J.Castro@CastroAndCo.com <i>Pro Se Plaintiff</i></p> <p>Elgine Heceta McArdle MCARDLE LAW OFFICE 2139 Market Street Wheeling, West Virginia 26002 elgine@mcardlelawoffice.com</p> <p>-and-</p> <p>Jay Alan Sekulow Jordan A. Sekulow Stuart J. Roth Andrew J. Economou Benjamin P. Sisney Nathan J. Moelker THE AMERICAN CENTER FOR LAW AND JUSTICE 201 Maryland Avenue, NE Washington, DC 20002 sekulow@aclj.org jordansekulow@aclj.org sroth@aclj.org aekonomou@aclj.org bsisney@aclj.org nmoelker@aclj.org <i>Counsel for Intervenor-Plaintiff West Virginia Republican Party</i></p>	<p>Douglas P. Buffington, II Chief Deputy Attorney General Curtis R. A. Capehart Deputy Attorney General Chanin Wolfinbarger Krivonyak Deputy Attorney General Office of the Attorney General 1900 Kanawha Blvd. E., Bldg 1, Rm 26E Charleston, West Virginia 25305 Doug.P.Buffington@wvago.gov Curtis.R.A.Capehart@wvago.gov ckrivonyak@wvago.gov <i>Counsel for Defendant Andrew Warner, West Virginia Secretary of State</i></p> <p>Michael R. Williams Principal Deputy Solicitor General David E. Gilbert Deputy Attorney General State Capitol Complex Building 1, Room E-26 michael.r.williams@wvago.gov dgilbert@wvago.gov <i>Counsel for Intervenor The State of West Virginia – Patrick Morrissey, Attorney General</i></p>
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/s/ J. Mark Adkins
J. Mark Adkins (WVSB #7414)